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OFFICE OF PETITIONS

In re Application of	:	
Webb et al.	:	DECISION ON APPLICATION
Application No. 09/788,526	:	FOR
Filed: February 21, 2001	:	PATENT TERM ADJUSTMENT
Atty. Dkt. No. 07844-478001/P442	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)," filed on August 6, 2008. Applicants request that the initial determination of patent term adjustment be corrected by three (3) days from nine hundred twenty-one (921) days to nine hundred twenty-four (924) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) at the time of mailing of the Notice of Allowance is NINE HUNDRED TWENTY-FOUR (924) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 6, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that that the patent term adjustment to date was 921 days. The instant application for patent term adjustment was timely filed.[1] The period of adjustment was 957 days of Office delay and 36 days of applicant delay.

Applicants assert that the calculation of 89 days of patent term adjustment for the mailing of a notice of allowance on May 6, 2008, four (4) months and 89 days after the filing of a request for continued examination on October 7, 2007, is incorrect because the request for continued examination was actually filed on October 4, 2007, not on October 7, 2007. Accordingly,

[1] PALM Records indicate that the issue fee was paid on August 6, 2008.

applicants assert that the patent term adjustment should be increased from 89 days to 92 days, as the notice of allowance mailed on May 6, 2008 was mailed four (4) months and 92 days after the filing of the request for continued examination filed on October 4, 2007.

Applicants' argument is well taken. Upon review of the record, the request for continued examination was in fact filed on October 4, 2007, not October 7, 2007. Accordingly, the period of adjustment under 37 CFR 1.703(a)(2) is the period from the date four (4) months after the request for continued examination was filed on October 4, 2007, until the date of mailing of the notice of allowance on May 6, 2008, or 92 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is NINE HUNDRED TWENTY-FOUR (924) days (960 (957+3) days of PTO delay, reduced by 36 days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PALM Calculation

Day : Wednesday

PALM INTRANET

Date: 1/7/2009
Time: 14:58:57

PTA Calculations for Application: 09/788526			
Application Filing Date:	02/21/2001	PTO Delay (PTO):	957
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	36
Post-Issue Petitions:	0	Total PTA (days):	924
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	01/07/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		89	
71	01/07/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	92		
63	05/06/2008	MAIL NOTICE OF ALLOWANCE	89		52
62	05/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	05/05/2008	ISSUE REVISION COMPLETED			
60	05/05/2008	DOCUMENT VERIFICATION			
58	05/05/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	12/26/2007	NOTICE OF ALLOWABILITY			
55	10/13/2007	DATE FORWARDED TO EXAMINER			
54	08/21/2007	RCE- AF PROCESSED			
53	10/13/2007	DATE FORWARDED TO EXAMINER			
52	10/07/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	10/13/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	10/04/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	09/07/2007	MAIL ADVISORY ACTION (PTOL - 303)			
48	09/06/2007	ADVISORY ACTION (PTOL-303)			
47	08/22/2007	DATE FORWARDED TO EXAMINER			
46	08/21/2007	AMENDMENT AFTER FINAL REJECTION			
45	08/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
44	08/06/2007	FINAL REJECTION			
43	05/17/2007	DATE FORWARDED TO EXAMINER			
42	05/14/2007	RESPONSE AFTER NON-FINAL ACTION			
41	02/15/2007	MAIL NON-FINAL REJECTION			

40	02/13/2007	NON-FINAL REJECTION			
39	11/30/2006	DATE FORWARDED TO EXAMINER			
38	11/17/2006	RESPONSE AFTER NON-FINAL ACTION			
37	08/24/2006	MAIL NON-FINAL REJECTION			
36	08/21/2006	NON-FINAL REJECTION			
35	07/17/2006	REQUEST FOR REFUND			
34	06/16/2006	DATE FORWARDED TO EXAMINER			
33	06/12/2006	RESPONSE AFTER NON-FINAL ACTION			
32	03/20/2006	MAIL NON-FINAL REJECTION			
31	03/17/2006	NON-FINAL REJECTION			
30	03/03/2006	DATE FORWARDED TO EXAMINER			
29	02/21/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	03/03/2006	DATE FORWARDED TO EXAMINER			
27	02/21/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		3	20
26	03/03/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	02/21/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
24	02/01/2006	MAIL ADVISORY ACTION (PTOL - 303)			
23	01/30/2006	ADVISORY ACTION (PTOL-303)			
22	01/18/2006	DATE FORWARDED TO EXAMINER			
21	01/06/2006	AMENDMENT AFTER FINAL REJECTION			
20	11/18/2005	MAIL FINAL REJECTION (PTOL - 326)			
19	11/14/2005	FINAL REJECTION			
18	08/31/2005	DATE FORWARDED TO EXAMINER			
17	08/08/2005	RESPONSE AFTER NON-FINAL ACTION		2	15
16	08/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
15	05/06/2005	MAIL NON-FINAL REJECTION	66		11
14	05/03/2005	NON-FINAL REJECTION			
13	02/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/25/2005	DATE FORWARDED TO EXAMINER			
11	11/01/2004	RESPONSE AFTER NON-FINAL ACTION		31	9
10	11/01/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
9	07/01/2004	MAIL NON-FINAL REJECTION	802		-1
8	06/28/2004	NON-FINAL REJECTION			

7	04/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
6	07/19/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	06/21/2001	APPLICATION DISPATCHED FROM OIPE			
4	03/22/2001	APPLICATION IS NOW COMPLETE			
3	03/21/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/21/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page